

BellSouth D.C., Inc.
Legal Department
Suite 900
1133 21st Street, N.W.
Washington, D.C. 20036-3351

bennett.ross@bellsouth.com

Bennett L. Ross
General Counsel-D.C.

202 463 4113
Fax 202 463 4195

May 26, 2005

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278

Dear Ms. Dortch:

BellSouth Corporation. ("BellSouth") submits this letter in support of the Petition for Further Extension of Stay ("Petition") filed by the Fax Ban Coalition on April 15, 2005.¹ As explained in the Petition as well as in the Fax Ban Coalition's recent *ex parte*,² the Commission should grant an additional stay of its unsolicited facsimile advertisement rules. Compliance with such rules at this juncture would require businesses such as BellSouth to incur substantial costs - costs that would be needlessly incurred if Congress passes legislation to address this issue, as Congress is currently considering doing, or if the Commission amends its rules in response to various pending petitions for reconsideration.³

As a threshold matter, BellSouth sends faxes to customers with whom it has an existing business relationship. In order to comply with the Commission's unsolicited facsimile advertisement rules, BellSouth would be required to make substantial changes to the procedures it uses to communicate with these customers via facsimile. Specifically, BellSouth would have to train all sales and support personnel concerning the Commission's rules, which would include preparing and distributing revised written training materials as well as conducting in-person training sessions. In order to secure written, signed faxed consent forms from customers as the rules require, it would be necessary for BellSouth to provide the consent forms to its customers,

¹ *Petition for Further Extension of Stay*, Fax Ban Coalition, CG Docket No. 02-278 (April 15, 2005).

² Ex Parte Letter from Gerard J. Waldron and Aaron Cooper, Counsel to Fax Ban Coalition, to Monica Desai, FCC (May 17, 2005).

³ See Ex Parte Letter from Thomas M. Sullivan, Chief Counsel for Advocacy, U.S. Small Business Administration, to the Honorable Kevin J. Martin, Chairman, FCC (May 17, 2005).

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which would be accomplished either by including consent forms with customer bills, posting the consent forms on applicable websites, or e-mailing the consent form to customers. BellSouth also would be required to provide customers with the necessary verbiage so that customer could send BellSouth a handwritten a consent form.

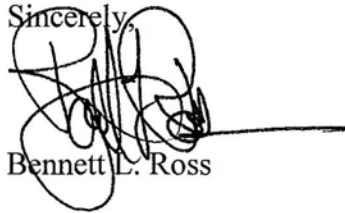
Once the fax consent forms are collected, BellSouth would be required to modify customer records to reflect the fact that a consent form has been received. Such changes would require modifications to BellSouth's computer systems, which are costly and timely to implement. Until system changes can be effectuated, BellSouth would need to establish a manual central tracking system to catalog the fax consent forms, which would require the hiring of additional clerical personnel.

BellSouth conservatively estimates that the cost of complying with the Commission's unsolicited facsimile rules would be approximately \$150,000. These costs include a high level estimate of the systems changes that would be required, the cost of additional clerical personnel, and the cost of additional postage necessary to collect written, signed fax consent forms from customers to whom such forms must be mailed. Importantly, this estimate does not reflect the cost of training or loss of productivity associated with the implementation of these rules, which are very difficult, if not impossible, to quantify.

BellSouth believes that the Commission should grant an extension of the effective date of these rules as requested by the Fax Ban Coalition so that BellSouth and other affected companies may avoid bearing compliance costs that ultimately may be unnecessary.

Please include a copy of this letter in the record in the above-referenced proceedings. Thank you for your attention to this matter.

Sincerely,



Bennett L. Ross

BLR:kjw

#586598

cc: Dan Gonzalez
Michelle Carey
Jessica Rosenworcel
Lauren Pete Belvin
Scott Bergmann
Jay Keithley
Genaio Fullano